

# *Documents on Diplomacy: The Source*

## *Excerpts from the Jackson–Vanik Amendment* *February 28, 1972*

TITLE 19 > CHAPTER 12 > SUBCHAPTER IV > Part 1 > § 2432

### **(a) Actions of non-market economy countries making them ineligible for normal trade relations, programs of credits, credit guarantees, or investment guarantees, or commercial agreements**

To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after January 3, 1975, products from any non-market economy country shall not be eligible to receive nondiscriminatory treatment (normal trade relations), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

- (1) denies its citizens the right or opportunity to emigrate;
- (2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or
- (3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

### **(b) Presidential determination and report to Congress that nation is not violating freedom of emigration**

After January 3, 1975,

(A) products of a non-market economy country may be eligible to receive nondiscriminatory treatment (normal trade relations),

(B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and

(C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a) of this section. Such

report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

### **(c) Waiver authority of President**

(1) During the 18-month period beginning on January 3, 1975, the President is authorized to waive by Executive order the application of subsections (a) and (b) of this section with respect to any country, if he reports to the Congress that—

- (A) he has determined that such waiver will substantially promote the objectives of this section; and
- (B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) of this section with respect to any country, if the waiver authority granted by this subsection continues to apply to such country pursuant to subsection (d) of this section, and if he reports to the Congress that—

- (A) he has determined that such waiver will substantially promote the objectives of this section; and
- (B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d) of this section. The President may, at any time, terminate by Executive order any waiver granted under this subsection.

### **(d) Extension of waiver authority**

(1) If the President determines that the further extension of the waiver authority granted under subsection (c) of this section will substantially promote the objectives of this section, he may

recommend further extensions of such authority for successive 12-month periods. Any such recommendations shall—

- (A) be made not later than 30 days before the expiration of such authority;
- (B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and
- (C) include, for each country with respect to which a waiver granted under subsection (c) of this section is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless a joint resolution described in section 2193 (a) of this title is enacted into law pursuant to the provisions of paragraph (2).

(2)

- (A) The requirements of this paragraph are met if the joint resolution is enacted under the procedures set forth in section 2193 of this title, and—

- (i) the Congress adopts and transmits the joint resolution to the President before the end of the 60-day period beginning on the date the waiver authority would expire but for an extension under paragraph (1), and
- (ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the later of the last day of the 60-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 2194 (b) of this title) beginning on the date the Congress receives the veto message from the President.

- (B) If a joint resolution is enacted into law under the provisions of this paragraph, the waiver authority applicable to any country with respect to which the joint resolution disapproves of the extension of such authority shall cease to be effective as of the day after the 60-day period beginning on the date of the enactment of the joint resolution.

- (C) A joint resolution to which this subsection and section 2193 of this title apply may be introduced at any time on or after the date the President transmits to the Congress the document described in paragraph (1)(B).

**(e) Countries not covered**

This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

*Source*

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[http://www.law.cornell.edu/uscode/html/uscode19/usc\\_sup\\_01\\_19\\_10\\_12\\_20\\_IV.html](http://www.law.cornell.edu/uscode/html/uscode19/usc_sup_01_19_10_12_20_IV.html)

## *Background on the Jackson–Vanik Amendment*

### *The Council on Foreign Relations, 2009*

#### **Introduction**

The Jackson–Vanik Amendment, an addition to the U.S. Trade Act of 1974, was crafted to put pressure on the Soviet Union for human rights abuses but has become a symbol of lingering tensions in the U.S.–Russia relationship. In order to receive the benefits of normal trade relations with the United States, non-market economies, which originally meant Communist economies, must comply with free emigration policies. Though the United States denies normal trade relations treatment only to Cuba and North Korea, U.S. trade relations with eight former Soviet states still fall under the jurisdiction of Jackson–Vanik. These countries—Azerbaijan, Belarus, Kazakhstan, Moldova, Russia, Tajikistan, Turkmenistan, and Uzbekistan—are deemed either compliant with the emigration requirement or provisionally exempt. Yet many experts assert that the amendment is an irritant in U.S. relations with these countries, particularly Russia, and has outgrown its relevance. . . .

#### **Cold War Origins**

Legislation that would become the Jackson–Vanik Amendment was proposed in October 1972 to prevent the Soviet Union from charging exorbitant fees to Jews trying to emigrate. Though cosponsors Sen. Henry M. Jackson (D-WA) and Rep. Charles A. Vanik (D-OH) cast the legislation as a means to put pressure on Communist countries for human rights violations, the amendment references only emigration, clearly targeting the former Soviet Union. The Soviet bloc stopped charging “education reimbursement fees” in late 1972, but the Jackson–Vanik Amendment was still included as a provision of Title IV of the Trade Act of 1974.

The legislation conditions non-market economies’ eligibility for receiving “most favored nation” status (now known as “normal trade relations”) and accessing particular U.S. financial facilities on compliance with a set of free-emigration requirements. To comply with the amendment, the applicable countries may not deny their citizens the right to emigrate, impose a significant tax on emigration or related documents, or otherwise monetarily punish any citizen for seeking to emigrate. . . .

#### *Source*

*The Council on Foreign Relations*

<http://www.cfr.org/trade/reassessing-jackson-vanik-amendment/p19734>